



2026:CGHC:21270



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WP227 No. 64 of 2025

1 - Govindram S/o Late Shri Mayaram Aged About 76 Years R/o Palace Road, Raigarh, Tahsil And Distt. Raigarh, Civil And Revenue Distt. Raigarh (Chhattisgarh)

2 - Vidyadhar S/o Late Shri Mayaram Aged About 65 Years R/o Palace Road, Raigarh, Tahsil And Distt. Raigarh (Chhattisgarh)

... Petitioner(s)

versus

1 - Laxmi Dewangan W/o Late Rohini Dewangan Aged About 66 Years R/o Koshta Para, Palace Road, Raigarh, Tahsil And Distt. Raigarh (Chhattisgarh)

2 - Bhupendra Dewangan S/o Late Rohini Dewangan Aged About 40 Years R/o Koshta Para, Palace Road, Raigarh, Tahsil And Distt. Raigarh (Chhattisgarh)

3 - Onkar Dewangan S/o Late Rohini Dewangan Aged About 38 Years R/o Koshta Para, Palace Road, Raigarh, Tahsil And Distt. Raigarh (Chhattisgarh)

4 - Poonam Dewangan W/o Shri Rambabu Dewangan Aged About 42 Years R/o Bangalo Callectorate Colony, Dindori, Distt. Dindori (Mp)

5 - Subhash Dewangan S/o Shri Late Ramuram Dewangan Aged About 59 Years R/o Koshta Para, Palace Road, Raigarh, Tahsil And Distt. Raigarh (Chhattisgarh) (Proposed Party)

... Respondent(s)

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Manoj Kumar Sinha, Advocate
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For Respondents No. 1 to 3	:	Mr. Rajendra Tripathi, Advocate
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For Respondent No.5	:	Mr. Ankit Singh, Advocate
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For Respondent No.4	:	None
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**Hon'ble Shri Justice Ravindra Kumar Agrawal****Order on Board****06/05/2026**

1. The present writ petition has been filed by the petitioners under Article 227 of the Constitution of India against the impugned order dated 03.12.2024 passed by learned First Additional Judge to the court of First Civil Judge Senior Division, Raigarh in Civil Suit No. 83-A/2023, whereby the application filed by the intervenor under Order 1 Rule 10 of CPC has been allowed and he was directed to be impleaded as a party defendant in this suit.
2. Learned counsel for the petitioners would submit that the petitioners were the defendants in the suit before the learned Trial Court. The respondents No. 1 to 4 are prosecuting a suit for declaration of title and partition of the suit property as mentioned in schedule A, B, C, and D annexed with the plaint situated at village Boirdadar, Badpali, Gadumariya, Tehsil and District Raigarh. The parties are having joint Hindu family property which has not been partitioned and therefore they are prosecuting the suit for partition amongst the family members. He would further submit that in the suit for declaration and partition between the family members, the present respondent No. 5 filed an application under Order 1 Rule 10 of CPC on 10.10.2023 claiming that he entered into an agreement to purchase the part of the suit property from the defendants and he being the necessary party should be impleaded as the defendant in the suit. The said application is allowed by the learned Trial Court vide its order dated 03.12.2024. He would further submit that the intervenor is claiming on the basis of an



agreement which does not create any right upon him to interfere in the partition proceeding between the family members. He is neither a necessary nor a proper party in the suit, and therefore he cannot be impleaded as a party defendant. Yet, the learned Trial Court has allowed his application which is liable to be set aside.

3. On the other hand, learned counsel appearing for respondents No. 1 to 3 supported the submissions made by learned counsel for the petitioners and would submit that it is the plaintiff's case who is prosecuting a suit for declaration and partition against the defendants and the intervenor has no right to interfere in the partition proceeding which is pending before the learned Trial Court between the family members. The intervenor has a separate and independent right to prosecute the defendants for specific performance of the contract with respect to his agreement, if any. But in the suit for declaration of title and partition between the members of the joint family, the intervenor has no locus to claim to be impleaded as a party defendant. Therefore, the order passed by the learned Trial Court is erroneous.
4. Learned counsel appearing for respondent No. 5 opposes the submissions made by learned counsel for the petitioners and submitted that the respondent No. 5 is having an agreement to purchase the land from the defendants and thus he is having interest over the property and therefore, he has filed an application for impleading himself as the defendant in the suit. Even if he has been made as a party defendant in the suit, the rights of the parties have not been prejudiced as the intervenor is claiming his right under the agreement which has been



executed between him and the defendants. Whatever property is obtained by the defendant would be subject to the execution of the sale deed under the said agreement. Therefore, he has filed his application for impleading himself as the defendant in the suit which has been rightly considered by the learned Trial Court and allowed the same. The writ petition does not have any merit and is liable to be dismissed.

5. I have heard learned counsel for the parties and perused the record of the Trial Court.
6. In the case of **Gurmit Singh Bhatia v. Kiran Kant Robinson & others**, 2020 (13) SCC 773, the Hon'ble Supreme Court has held that:

“5.2 An identical question came to be considered before this Court in the case of *Kasturi* (supra) and applying the principle that the plaintiff is the dominus litis, in the similar facts and circumstances of the case, this Court observed and held that the question of jurisdiction of the court to invoke [Order 1 Rule 10 CPC](#) to add a party who is not made a party in the suit by the plaintiff shall not arise unless a party proposed to be added has direct and legal interest in the controversy involved in the suit. It is further observed and held by this Court that two tests are to be satisfied for determining the question who is a necessary party. The tests are – (1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings; (2) no effective decree can be passed in the absence of such party. It is further observed and held that in a suit for specific performance the first test can be formulated is, to



determine whether a party is a necessary party there must be a right to the same relief against the party claiming to be a necessary party, relating to the same subject matter involved in the proceedings for specific performance of contract to sell. It is further observed and held by this Court that in a suit for specific performance of the contract, a proper party is a party whose presence is necessary to adjudicate the controversy involved in the suit. It is further observed and held that the parties claiming an independent title and possession adverse to the title of the vendor and not on the basis of the contract, are not proper parties and if such party is impleaded in the suit, the scope of the suit for specific performance shall be enlarged to a suit for title and possession, which is impermissible. It is further observed and held that a third party or a stranger cannot be added in a suit for specific performance, merely in order to find out who is in possession of the contracted property or to avoid multiplicity of the suits. It is further observed and held by this Court that a third party or a stranger to a contract cannot be added so as to convert a suit of one character into a suit of different character.

5.3 In paragraphs 15 and 16, this Court observed and held as under:

“15. As discussed hereinafter, whether Respondents 1 and 4 to 11 were proper parties or not, the governing principle for deciding the question would be that the presence of Respondents 1 and 4 to 11 before the court would be necessary to enable it effectually and completely to



adjudicate upon and settle all the questions involved in the suit. As noted hereinafter, in a suit for specific performance of a contract for sale, the issue to be decided is the enforceability of the contract entered into between the appellant and Respondents 2 and 3 and whether contract was executed by the appellant and Respondents 2 and 3 for sale of the contracted property, whether the plaintiffs were ready and willing to perform their part of the contract and whether the appellant is entitled to a decree for specific performance of a contract for sale against Respondents 2 and 3. It is an admitted position that Respondents 1 and 4 to 11 did not seek their addition in the suit on the strength of the contract in respect of which the suit for specific performance of the contract for sale has been filed. Admittedly, they based their claim on independent title and possession of the contracted property. It is, therefore, obvious as noted hereinafter that in the event, Respondents 1 and 4 to 11 are added or impleaded in the suit, the scope of the suit for specific performance of the contract for sale shall be enlarged from the suit for specific performance to a suit for title and possession which is not permissible in law. In the case of [Vijay Pratap v. Sambhu Saran Sinha](#) [(1996) 10 SCC 53] this Court had taken the same view which is being taken by us in this judgment as discussed above. This Court in



that decision clearly held that to decide the right, title and interest in the suit property of the stranger to the contract is beyond the scope of the suit for specific performance of the contract and the same cannot be turned into a regular title suit. Therefore, in our view, a third party or a stranger to the contract cannot be added so as to convert a suit of one character into a suit of different character. As discussed above, in the event any decree is passed against Respondents 2 and 3 and in favour of the appellant for specific performance of the contract for sale in respect of the contracted property, the decree that would be passed in the said suit, obviously, cannot bind Respondents 1 and 4 to 11. It may also be observed that in the event, the appellant obtains a decree for specific performance of the contracted property against Respondents 2 and 3, then, the Court shall direct execution of deed of sale in favour of the appellant in the event Respondents 2 and 3 refusing to execute the deed of sale and to obtain possession of the contracted property he has to put the decree in execution. As noted hereinafter, since Respondents 1 and 4 to 11 were not parties in the suit for specific performance of a contract for sale of the contracted property, a decree passed in such a suit shall not bind them and [in that case](#), Respondents 1 and 4 to 11 would be at liberty either to obstruct execution in order to protect their possession by taking



recourse to the relevant provisions [of CPC](#), if they are available to them, or to file an independent suit for declaration of title and possession against the appellant or Respondent 3. On the other hand, if the decree is passed in favour of the appellant and sale deed is executed, the stranger to the contract being Respondents 1 and 4 to 11 have to be sued for taking possession if they are in possession of the decretal property.

16. That apart, from a plain reading of the expression used in subrule (2) [Order 1 Rule 10 CPC](#) “all the questions involved in the suit” it is abundantly clear that the legislature clearly meant that the controversies raised as between the parties to the litigation must be gone into only, that is to say, controversies with regard to the right which is set up and the relief claimed on one side and denied on the other and not the controversies which may arise between the plaintiffappellant and the defendants inter se or questions between the parties to the suit and a third party. In our view, therefore, the court cannot allow adjudication of collateral matters so as to convert a suit for specific performance of contract for sale into a complicated suit for title between the plaintiffappellant on one hand and Respondents 2 and 3 and Respondents 1 and 4 to 11 on the other. This addition, if allowed, would lead to a complicated litigation by which the trial and



decision of serious questions which are totally outside the scope of the suit would have to be gone into. As the decree of a suit for specific performance of the contract for sale, if passed, cannot, at all, affect the right, title and interest of Respondents 1 and 4 to 11 in respect of the contracted property and in view of the detailed discussion made hereinafter, Respondents 1 and 4 to 11 would not, at all, be necessary to be added in the instant suit for specific performance of the contract for sale.”

7. It is not in dispute that a suit for declaration of title and partition is pending between the plaintiffs and defendants, and the respondent No. 5 is an intervener who filed the application for impleading himself to be the party defendant in this suit. The respondent No. 5 is a stranger who is claiming to be impleaded as a party defendant on the basis of the agreements dated 17.03.2006, 27.03.2006, 21.06.2006 and 10.04.2007 allegedly executed between him and the defendants. In pursuant to the earlier agreement, a consolidated and fresh agreement was executed on 29.08.2014 and therefore he has substantial right to be impleaded as the party defendant in the suit between the parties.
8. From perusal of the copy of the plaint filed by the petitioners (Annexure P-2), it transpires that it is a suit between the plaintiffs and defendants for declaration of title and partition of the suit property. It is a simple suit of declaration and partition. The claim of the intervener is not that he is also a member of the joint family but he is claiming his right by virtue of the agreements which is allegedly executed by the defendants in his



favor. Merely execution of agreement does not create any right in his favor to be impleaded as the defendant in the suit filed by the plaintiff for declaration of title and partition. The plaintiff is a dominus litis of his suit and it is upon him to claim relief and to make the defendants in the suit. Definitely the intervener cannot claim to be impleaded as the defendant in the suit which was filed by the plaintiffs for declaration and partition of the suit. The claim of the intervener/respondent No. 5 is totally foreign to the issue involved in the present suit between the plaintiffs and defendants and thus he cannot claim as a matter of right to be impleaded as the defendant in the suit filed between the members of the joint family for partition of their property.

9. Accordingly, the order passed by learned Trial Court found to be erroneous and accordingly hereby set aside. The application filed by the respondent No. 5 for impleading himself as a party defendant in the suit dated 10-10-2023 is rejected and the learned Trial court is directed to proceed in accordance with law with the suit.
10. Accordingly, the present writ petition is **allowed**.

Sd/- 
(Ravindra Kumar Agrawal)
Judge

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